

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution ALJ 176-3101
Administrative Law Judge Division
November 21, 2002

R E S O L U T I O N

RESOLUTION ALJ 176-3101. Ratification of preliminary determinations of category for proceedings initiated by application. The preliminary determinations are pursuant to Article 2.5, Rules 4, and 6.1 of the Commission's Rules of Practice and Procedure. (See also Rule 63.2(c) regarding notice of assignment.)

The Commission's rules and procedures which implement the requirements of Senate Bill (SB) 960 (Leonard, ch. 96-0856) are, for the most part, found in Article 2.5 of our Rules of Practice and Procedure. The rules and procedures were adopted by the Commission in D.97-11-021, which describes more fully the background to the development of these rules. Rule 4 describes the formal proceedings to which the SB 960 rules (Article 2.5) apply. Rule 6.1 requires the Commission to preliminarily determine a proceeding's category, whether the proceeding requires a hearing, and designate an Assigned Commissioner and Administrative Law Judge. Rule 6.1(a) states that the preliminary determination of category is not appealable but shall be confirmed or changed by Assigned Commissioner's ruling. Unless and until a preliminary determination is changed by such ruling, the preliminary determination of category governs the applicability of the other reforms that SB 960 requires. Rule 63.2 provides for petitioning the Commission to reassign a proceeding to another administrative law judge. Rule 63.2(c) establishes the time for filing such a petition. For purposes of Rule 63.2(c), notice of the assignment is the day the assignments associated with this preliminary categorization document appear in the Daily Calendar following the Commission business meeting.

The Categories

SB 960 makes sweeping changes in many aspects of the Commission's practices in an effort to improve the quality and timeliness of Commission decision making. It creates three categories of proceedings: adjudicatory, ratesetting, and quasi-legislative. The

applicability of many of the changes it requires depends upon the category assigned to the proceeding. For example, the ex parte rules which apply differ if the proceeding is categorized as adjudicatory rather than quasi-legislative. The Legislature defined each of these procedural categories in Section 7 of SB 960. Consistent with these definitions, the rules provide that:

“‘Adjudicatory’ proceedings are: (1) enforcement investigations into possible violations of any provision of statutory law or order or rule of the Commission; and (2) complaints against regulated entities, including those complaints that challenge the accuracy of a bill, but excluding those complaints that challenge the reasonableness of rates or charges, past, present, or future.

“‘Ratesetting’ proceedings are proceedings in which the Commission sets or investigates rates for a specifically named utility (or utilities), or establishes a mechanism that in turn sets the rates for a specifically named utility (or utilities). ‘Ratesetting’ proceedings include complaints that challenge the reasonableness of rates or charges, past, present, or future. For purposes of this Article, other proceedings may be categorized as ratesetting as described in Rule 6.1(c).

“‘Quasi-legislative’ proceedings are proceedings that establish policy or rules (including generic ratemaking policy or rules) affecting a class of regulated entities, including those proceedings in which the Commission investigates rates or practices for an entire regulated industry or class of entities within the industry.” (Rules 5(b), 5(c), and 5(d).)

Mixed or Unclear Category Proceedings

For a proceeding that may fall into more than one category, the rules allow parties to recommend that the Commission pick the most suitable category, or to recommend dividing the subject matter of the proceeding into different phases or one or more new proceedings, each with its own category. The rules provide that a proceeding that does not clearly fit into *any* of SB 960’s defined categories will be conducted under the rules applicable to the ratesetting category. As such a proceeding matures, the Commission may determine that the rules applicable to one of the other categories, or some hybrid of those rules, would be better suited to the proceeding.

As stated in D.97-06-071, ratesetting proceedings typically involve a mix of policymaking and factfinding relating to a particular public utility. Because proceedings that do not clearly fall within the adjudicatory or quasi-legislative categories likewise typically involve a mix of policymaking and factfinding, the ratesetting procedures are, in general, preferable for those proceedings.

Next Steps

As stated above, this preliminary determination of category is not appealable. Once interested parties have had an opportunity to respond to the initiating party's proposed category, the preliminary determination shall be confirmed or changed by Assigned Commissioner's Ruling pursuant to Rule 6(a)(3). This Assigned Commissioner Ruling may be appealed to the full Commission pursuant to Rule 6.4(a). Parties have 10 days after the ruling is mailed to appeal. Responses to the appeal are allowed under Rule 6.4(b), and must be filed and served not later than 15 days after the ruling is mailed. The full Commission will consider the appeal.

Any party, or person or entity declaring an intention to become a party is entitled to petition for reassignment of the proceeding to another Administrative Law Judge, as described in Rule 63.2. Such a petition must be filed no later than 10 days after notice of the assignment. For purposes of Rule 63.2(c), notice of the assignment is the day the assignments associated with this preliminary categorization document appear in the Daily Calendar following the Commission business meeting.

Conclusion

The Commission has reviewed the initial pleading of the utility applicants listed in the attached schedule and has made a preliminary determination of category and need for hearing, consistent with the requirements and definitions of Article 2.5 of its rules.

IT IS ORDERED that each proceeding listed in the attached schedule is preliminarily categorized, and the need for a hearing is noted.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on _____, the following Commissioners voting favorably thereon:

WESLEY M. FRANKLIN
Executive Director

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3101 (11/21/02)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A02-11-007 SOUTHERN CALIFORNIA WATER COMPANY, (U 133-W), for an order authorizing it to increase rates for water service by \$19,826,100 or 29.72% in the year 2003; by \$6,327,800 or 7.31% in the year 2004; and by \$6,326,200 or 6.81% in the year 2005 in its Region III Service Area and increased rates for the General Office Allocation in all of its Customer Service Areas in this Application including: Arden-Cordova, Bay Point, Clearlake, Los Osos, Ojai, Santa Maria, Simi Valley and Metropolitan. (N02-11-006.)	Ratesetting	Ratesetting	YES
A02-11-009 ALLIED CAPITAL CORPORATION, STARTEC GLOBAL LICENSING CORPORATION, STARTEC GLOBAL OPERATING CORPORATION, STARTEC, INC., to transfer control of Startec, Inc. to Allied Capital Corporation.	Ratesetting	Ratesetting	NO
A02-11-010 PACIFIC GAS AND ELECTRIC COMPANY, (U 39-M), for an Order either (1) confirming that it may grant a License pursuant to General Order 69-C to the California Department of Transportation [CalTrans] for a structure foundation investigation on PG&E property; (2) exempting PG&E from the requirement of prior Commission approval pursuant to Public Utilities Code Section 853(b); or (3) authorizing PG&E under Public Utilities Code Section 851 to grant the proposed License to CalTrans.	Ratesetting	Ratesetting	NO
A02-11-015 MANESH, AMANDEEP SINGH, dba ECONOMY EXPRESS AIRPORTER/LIMO, for authority to operate as a Passenger Stage Corporation between points in the Counties of San Francisco, Santa Clara, Alameda, Contra Costa and San Mateo, on the one hand, and the San Francisco, Oakland and San Jose International Airports, on the other hand; and to establish a Zone of Rate Freedom.	Ratesetting	Ratesetting	NO
A02-11-016 SANTA CLARA VALLEY TRANSPORTATION AUTHORITY, for an order approving alterations of an existing at-grade heavy rail crossing of Hamilton Avenue by the freight railroad line in the City of Campbell, County of Santa Clara.	Ratesetting	Ratesetting	NO

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3101 (11/21/02)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A02-11-018 CITY OF SANTA ROSA, for an order authorizing the City to construct Pierson Reach Bike and Pedestrian Path, under the trestle and tracks and over the right-of-way of the Northwestern Pacific Railroad Authority, in the City of Santa Rosa, Sonoma County.	Quasi-legislative	Ratesetting	NO
A02-11-019 TOUCHSTONE COMMUNICATIONS INC., dba DE TOUCHSTONE COMMUNICATIONS INC., for registration as an interexchange carrier telephone corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO
A02-11-020 CALIFORNIA WATER SERVICE COMPANY, (U 60-W), for an order authorizing it to increase rates charged for water service in the REDWOOD VALLEY District by \$566,100 or 78.3% in the year 2003; by \$205,600 or 16.0% in the year 2004; by \$200,300 or 13.4% in the year 2005; and by \$201,000 or 11.9% for the year 2006. (N02-11-013.)	Ratesetting	Ratesetting	YES
A02-11-021 CALIFORNIA WATER SERVICE COMPANY, (U 60-W), for an order Authorizing it to increase rates charged for water service in the ANTELOPE VALLEY District by \$60,300 or 5.8% in the year 2003; by \$130,600 or 11.8% in the year 2004; by \$126,900 or 10.2% in the year 2005; and by \$127,500 or 9.3% for the year 2006. (N02-11-012.)	Ratesetting	Ratesetting	YES
A02-11-022 CALIFORNIA WATER SERVICE COMPANY, (U 60-W), for an order Authorizing it to increase rates charged for water service in the KERN RIVER VALLEY District by \$913,200 or 46.9% in the year 2003; by \$148,800 or 5.3% in the year 2004; by \$137,500 or 4.6% in the year 2005; and by \$139,000 or 4.4% for the year 2006. (N02-11-014.)	Ratesetting	Ratesetting	YES
A02-11-023 VANCO US LLC, for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3101 (11/21/02)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A02-11-024 ALPINE NATURAL GAS COMPANY, in Compliance with R01-08-027 Orders.	Ratesetting	Ratesetting	NO
A02-11-025 PACIFIC GAS AND ELECTRIC COMPANY, (U 39-M), for Authorization pursuant to Section 851 of the Public Utilities Code to Amend a License Agreement to allow construction of a cabin on its property.	Ratesetting	Ratesetting	NO
A02-11-026 GREENFIELD COMMUNICATIONS, INC., for a Certificate of Public Convenience and Necessity to Provide InterLATA and intraLATA interexchange services and competitive local exchange services as a reseller. [Public Version]	Ratesetting	Ratesetting	NO
A02-11-027 ARBROS COMMUNICATIONS, INC., ARCOMM HOLDINGS CO., COMM SOUTH COMPANIES, INC., for approval of transfer of control to Arcomm Holdings Co.	Ratesetting	Ratesetting	NO
A02-11-028 PACIFIC GAS AND ELECTRIC COMPANY, Compliance Application proposing terms under which noncore gas consumers may elect core gas service in compliance with Ordering Paragraph 3 of Resolution G- 3318.	Quasi- legislative	Ratesetting	YES
A02-11-031 SAN DIEGO GAS & ELECTRIC COMPANY, (U 902-M), for Approval to Recover Electric CARE and Electric Low Income Energy Efficiency Costs.	Ratesetting	Ratesetting	YES